

**RESOLUTION TO AMEND WAKE COUNTY UNIFIED
DEVELOPMENT ORDINANCE OA-02-20**

WHEREAS, the Wake County Unified Development Ordinance guides the physical development of the County, and preserves and enhances the overall quality of life of residents, by exempting certain development activities related to bona fide farms pursuant to North Carolina General Statutes; and

WHEREAS, North Carolina General Statutes grant bona fide farms exemption from local zoning ordinances and certain local stormwater regulations; and

WHEREAS, the proposed text amendments clarify which articles and regulations within the Wake County Unified Development Ordinance apply and do not apply to bona fide farms; and

WHEREAS, the Planning Staff recommends approval of the proposed text amendments; and

WHEREAS, on May 6, 2020, the Wake County Planning Board voted unanimously to recommend that the Board of Commissioners approve the proposed text amendments; and

WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing on July 6, 2020 to consider amending the Unified Development Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS THAT:

The proposed text amendments are hereby adopted, and the Unified Development Ordinance is hereby amended as shown in the attached OA-02-20 Ordinance Amendment Summary.

Adopted this 8th day of September 2020.

ATTEST:

BOARD OF COMMISSIONERS FOR
THE COUNTY OF WAKE

Clerk to the Board

By: _____
Gregory D. Ford, Chair

APPROVED AS TO FORM:

Scott Warren, County Attorney

OA-02-20 Ordinance Amendment Summary

Article 1 General Provisions

1-15 - Exemption for Bona Fide Farms.

1-15-1 The zoning provisions of this UDO do not apply to property used for bona fide farm purposes, except that:

(A) Property used for bona fide farm purposes or agriculture activities is not exempt from compliance with the following provisions of this UDO:

- (1) Article 8 Subdivision Design and Improvements;
- (2) Article 9-21 "State Nutrient Management Strategy Rules" of Article 9 Stormwater Management, including State stormwater management rules that implement the Neuse River Basin Nutrient Sensitive Waters Management Strategy (15A NCAC 02B .0235), State stormwater management rules for new development that implement the Falls Reservoir Water Supply Nutrient Strategy (15A NCAC 02B .0277), and State stormwater management rules for new development that implement the Jordan Water Supply Nutrient Management Strategy (15A NCAC 02B .0265);
- (3) Article 10 Erosion and Sedimentation Control, except as set forth in Article 10-13-2 "Exemptions" subsection (A) "Agricultural Activities" and subsection (B) "Forestland Activities";
- (4) Article 11-10 Neuse Riparian Buffers;
- (5) Article 12 Water and Wastewater Systems;
- (6) Article 14 Flood Hazard Areas and
- (7) Any flood protection regulations required to be imposed by the National Flood Insurance Program

(B) Bona fide farms and other farm properties are not exempt from compliance with any flood protection regulations required to be imposed by the National Flood Insurance Program.

1-15-2 Existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation are exempt from the zoning provisions of this UDO.

Article 9. Stormwater Management9-12 - Applicability.

9-12-1 **Exemptions.** The stormwater management regulations of Part 2 "Standards for Managing Stormwater Runoff" of this Article, found in Article 9-20 "Maximum Curve Numbers After Development" including the 4 subparts thereto: Article 9-20-1 "Precipitation Depth"; Article 9-20-2 "Draw-down Period"; Article 9-20-3 "Stormwater Credits"; and Article 9-20-4 "Stormwater Control Measures", do not apply to any of the following development activities:

- (A) Agriculture, forestry, or mining.
- (B) Office, institutional, commercial, or industrial development that disturbs a land area of one-half acre or less.
- (C) Any development in which the owner has accrued a vested right. Wake County recognizes a vested right if either of the following occurred:
 - (1) A subdivision plan, site plan, or development permit was officially approved by Wake County or the State before August 13, 2006 and that plan or permit remains unexpired.
 - (2) The landowner otherwise demonstrates a vested right has accrued under North Carolina Law.

Article 19 Review and Approval Procedures

19-42-1 Permits.

- (A) **Permit Required.** No excavation may be commenced, no wall, structure, premises, or land used, building or part thereof may be built, constructed or altered, nor may any building be moved, nor may any sign be erected or structurally altered (unless exempted), until application has been made and the proper permit has been obtained. This permit requirement includes prima facie businesses or activities. When the Planning Director, with the technical assistance of other County departments or upon direction by the Planning Board or Board of Adjustment, has determined that the proposed land use is permitted under the provisions of this ordinance, a permit for the proposed use will be issued.
- (B) **Applications.**
 - (1) All applications for Land Use Permits must be accompanied by:
 - (a) Accurate plot plans, drawn to scale, showing the actual shape and dimensions of the lot to be built upon;
 - (b) The legal description of the lot to be built upon or used or the location of the plan as recorded by the Wake County Register of Deeds;
 - (c) The exact sizes and location on the lot of all existing buildings and accessory buildings; the lines within which the proposed building or structure will be erected or altered;
 - (d) The existing and intended use of each building or part of building, the number of families or housekeeping units the building is designed to accommodate;
 - (e) The location, dimensions, and arrangements of all bufferyards required by this ordinance, including a landscape plan showing the design and specifications for any required plant materials earth berms, fences, or walls;
 - (f) Location, dimensions and use of all existing and proposed impervious surface areas on the site;
 - (g) Any other data deemed necessary by the Planning Director to determine compliance of a proposed development with the terms of this ordinance.
 - (2) Non-residential plans must be prepared by a licensed design professional authorized by the North Carolina General Statutes to perform such work. The Planning Director may waive this requirement by certifying in writing that such information is unnecessary in the particular case to determine compliance with applicable regulations. Residential uses may require a professionally prepared site plan based on the scale and scope of the project.
 - (3) No certificate of occupancy or compliance may be issued by the Planning Director or Building Inspector until:
 - (a) Applicable standards of this ordinance have been met; or
 - (b) Written assurances are provided to the Building Inspector that applicable standards of this ordinance will be met within a reasonable period of time. Assurances must

include posting of a surety bond or submission of a notarized letter of credit for the value of the incomplete improvements required.

- (4) The Planning Director is responsible for determining compliance with any applicable standard of this ordinance not under the purview of the Building Inspector.
- (5) In addition to the above, the following information must accompany applications for nonresidential uses:
 - (a) Location of parking areas including the layout of spaces (on paved lots only), and ingress and egress from a public right-of-way;
 - (b) Driveway entrance permit from North Carolina Division of Highways, District Engineer;
 - (c) Location of signs, if any, including ownership and type (identification, commercial, or those not requiring a permit); and
 - (d) Whether excavation, clearing of ground, or moving of earth other than that actually required for the building, is expected to occur.
- (C) **Exemptions.** Unless the property at issue is located in an area of special flood hazard, the following land uses will be exempt from the permit requirements as stated in (A) and (B) above:
 - (1) The use of property for a bona fide farm purpose, except that application must be made for a determination of whether the use or proposed use is a bona fide farm purpose, and a farm exempt permit shall be issued upon a determination that the property is being used for a bona fide farm purpose;